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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,203	06/15/2001	Leonard R. Bayer	HAR-003	8016

7590 10/03/2002

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/882,203

Applicant(s)

Bayer et al

Examiner

Steven McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15 and 17-19, drawn to a system for product configuration, classified in class 705, subclass 27.
  - II. Claims 16, drawn to a computer system, classified in class 705, subclass 10.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed since all elements of the subcombination are not positively recited in the combination. The subcombination has separate utility such as a computer generally usable for standalone product research.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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4. During a telephone conversation with Kenneth J. LuKacher on 9/24/02 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-15 and 17-19.

Affirmation of this election must be made by applicant in replying to this Office action.

Claim 16 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

#### ***Drawings***

6. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

#### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior

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art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson (6,167,383) in view of Ghahramani (5,808,908).

Henson shows displaying features of a product; selecting a feature; displaying subfeatures associated with said feature associated each having a price; selecting a subfeature; determining total price based on the price of selected subfeatures; displaying the total price; repeating the steps until an acceptable combination is reached; sending the relevant information over the network to another computer. It does not show determining the elapsed time until the an acceptable configuration is reached. Ghahramani shows determining the elapsed time. It would have been obvious to one of ordinary skill in the art to modify the method of Henson by determining the elapsed time as taught by Ghahramani in order to help measure and improve usability of the configuration system.

As to claim 9, Henson shows maintaining a list of each selected subfeature (Fig. 3A, Fig. 5).

As to claim 10, Henson shows storing the information on another (the server) computer since this information is contained in the shopping cart 20 at the manufacturer in order to produce the computer and the cart can be saved (Fig. 6).

As to claim 11, Henson shows answering questions in a survey (Figs. 7,8), at least one of which relates to the product (for instance who will be its owner) and sending the answers to the server.

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As to claim 12, Henson shows determining when there is a conflict between subfeatures, providing a message to that effect and resetting the selection.

As to claim 13, it is noted that Henson shows means for updating the displayed total price as selected subfeatures change comprising the “update price” button; and means for indicating that selecting the subfeatures is complete comprising the “place order” button.

As to claim 14, Henson as modified by Ghahramani show means for sending all configuration information and time to the server and saving at the other computer.

As to claim 15, Henson shows means for maintaining a list of each selected subfeature and feature.

9. Claims 1-7 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henson in view of Ghahramani.

Claims 1-7 and 17-19 are obvious over claims 8-15 since the applicant admits that claims 1-7 and 17-19 are not patentably distinct over claims 8-15. It is further noted that should the two groups of claims be found to be patentably distinct, a restriction between would be necessary.

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***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fuerst shows a survey tool for the WWW.

Hgahramani (5,724,262) shows a timer for usability.

Cohen et al show a survey tool.

Abclow shows a product design tool.

Malec et al show a passive data collection system.

Walker et al show the use of a questionnaire.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.

  
Steven B. McAllister

September 24, 2002